

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HUNG PHUOC NGUYEN,

NO. CIV. S-02-2758 LKK/JFM P

Petitioner,

v.

O R D E R

MIKE KNOWLES,

Respondent.

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This court granted petitioner's habeas petition on September 17, 2010, and gave the respondent "a period of thirty days in which to elect to retry petitioner or to resentence him." Order, ECF No. 35. Respondent filed a Request from/Request for Modification of the writ order on October 13, 2010. ECF No. 37. In that request, respondent sought clarification on whether he could comply with the order by electing to resentence petitioner within thirty days or whether the writ order required him to actually resentence petitioner in that time. Respondent indicated in his request that he had elected to resentence petitioner, and that he "has been

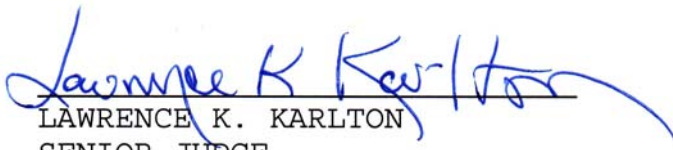
1 diligently seeking to resentence Petitioner by October, 17, 2010.
2 However, actual resentencing does not appear possible by October
3 17, 2010" because petitioner is being held outside the State of
4 California. Respondent indicated that the resentencing could be
5 completed by December 2, 2010.

6 This court issued an order on October 15, 2010 directing
7 petitioner to file an opposition or statement of non-opposition to
8 respondent's request within seven (7) days. Petitioner has not
9 filed an opposition or statement of non-opposition to the request.

10 Accordingly, the court now clarifies its September 17, 2010
11 order (ECF No. 35) as follows: Respondent may comply with the grant
12 of the writ by electing, within thirty (30) days of the September
13 17, 2010 order, to resentence petitioner, and by ensuring that by
14 December 2, 2010 petitioner is returned to California for a
15 sentencing as of that date, including appointment of counsel.
16 Petitioner is not precluded from seeking a further continuance in
17 state court.

18 IT IS SO ORDERED.

19 DATED: November 8, 2010.

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23 LAWRENCE K. KARLTON
24 SENIOR JUDGE
25 UNITED STATES DISTRICT COURT
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